

WHITE EARTH NATION TRIBAL UTILITY COMMISSION

NET METERING REGULATIONS

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SECTION 101. Authority and Purpose

The White Earth Tribal Utility Commission establishes these Net Metering Regulations pursuant to the White Earth Nation Tribal Utilities Code, which mandates at Division B, Section 2.01(3)(i) that:

“Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible distributed energy resource and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period. Net metering shall also include virtual net metering and aggregate net metering.”

These Net Metering Regulations are established to: promote clean energy generation; promote energy efficiency investment; provide economic benefit to tribal households and the tribal community; reduce demand on central transmission grids; and facilitate energy self-reliance.

SECTION 102. Scope

These Regulations establish the net metering requirements that apply to any Electric Utility, as defined in Division B, Section 1.02 of the White Earth Nation Tribal Utilities Code. These Regulations also establish requirements for the interconnection of customer-generator facilities, including those that generate renewable energy, with electric distribution systems and Electric Utility Services.

SECTION 103. Definitions

The following words and terms, when used in these Regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Annualized period" means a period including 12 consecutive months of billing. A customer-generator's first annualized period begins on the first day of the first full billing period after which the customer-generator's facility is interconnected and is generating electricity.

"Applicant" means a person who has filed an application to interconnect a generating facility to an electric distribution system.

"Bill credit" means a credit, measured in both kilowatt-hours and dollars, applied to a customer-generators' account according to Section 104(C).

"Customer" means any entity interconnected to the electric utility system for the purpose of receiving [or exporting] electric power from [or to] the electric utility system.

"Customer-generator" means one or more residential, commercial, governmental or industrial customer(s) that generates Renewable Energy electricity. If there is more than one Customer-generator, they shall have an approved form contract between them that has been accepted by the TUC.

"Generating facility" means the Renewable Energy equipment used by a customer-generator to generate, manage, and monitor electricity. A generating facility typically includes an electric generator and/or an equipment package, as defined herein. Also referred to as the "generator." The capacity of the Generating Facility shall be limited to 110% of the peak capacity of the Customer-generator's load.

"Electric Distribution System" means that low-voltage portion of an electric system which delivers electricity from transformation points on the transmission system to points of connection at a customer's premises or meter.

"Electric Utility" means an entity that is duly licensed by the TUC to offer, and to assume the contractual and legal responsibility to provide, electric service to retail customers.

"IEEE standards" means the standards published by the Institute of Electrical and Electronic Engineers, available at www.ieee.org.

"Interconnection agreement" means an agreement, between a customer-generator and an electric utility, which governs the connection of the generating facility to the electric distribution system, as well as the ongoing operation of the generating facility after it is connected to the system. An interconnection agreement shall follow the standard form agreement that was developed by the TUC and is available through the TUC.

"kW" means kilowatt, a unit of power representing 1,000 watts. A kW equals 1/1000 of a mW, as defined herein.

"mW" means megawatt, a unit of power representing 1,000,000 watts. A megawatt equals 1000 kW.

"Net consumer" means an electric utility customer who uses more electricity than the customer produces.

"Net producer" means an electric utility customer who produces more electricity than the customer uses.

"Net metering" means a system of metering electricity in which the electric utility:

1. credits a customer-generator at the retail rate for each kilowatt-hour produced by a renewable energy system installed on the customer-generator's side of the electric meter; and
2. compensates the customer-generator at the end of the annualized period for any remaining credits, at a rate equal to the supplier/provider's retail rate.

"Net energy metering" has the same meaning as net metering.

"TUC" means the White Earth Nation Tribal Utility Commission or any successor agency.

"Renewable Energy" means electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal electric technologies, wave or tidal action, methane gas from landfills, or sustainable biomass fuel.

SECTION 104. Net Metering General Provisions

- A. All electric utilities located within the jurisdiction of the TUC shall offer net metering.
- B. Each electric utility shall make net metering available to customer-generators on a first-come, first-served basis.
- C. When the amount of electricity delivered by the customer-generator, plus any bill credits held over from previous billing periods, exceed the electricity supplied by the electric utility, the electric utility shall maintain an account of bill credits for the benefit of the customer-generator in subsequent billing periods.
 - i. The customer-generator shall be compensated, unless otherwise agreed upon between the customer-generator and the electric utility, at the end of the annualized period for any remaining credits at a rate equal to the retail cost of power.
 - ii. Upon agreement between the customer-generator and the electric utility, the customer-generator may roll over credits from a previous annualized period and be compensated at the end of any future annualized period for any remaining credits, at a rate equal to the retail cost of power.
- D. If a customer-generator switches electric suppliers, or otherwise formally terminates net metering, the electric utility with whom service is terminating shall treat the end of the service period as if it were the end of the annualized period and shall compensate the customer-generator according to subsection (C)(i) above.
- E. Each electric utility shall submit an annual net metering report to the TUC. The report shall be submitted by March 1 of the following year, and shall include the following information for the one-year period ending December 31st of the previous year:
 - i. The total number of net metered customer-generator facilities, by resource type;
 - ii. The total nameplate generating capacity, in direct current, of net metered customer-generator facilities, by resource type;

- iii. The total number of kilowatt-hours (kWh) for which the utility issued bill credits, regardless of when the bill credit was used, to net metered customer-generators, by resource type;
 - iv. The total number of bill credits that the utility compensated net metered customer-generators under subsections (C)(i)-(ii) and (D) of this section, and the dollar amount of that compensation, by resource type;
 - v. The number of net metered customer-generators that received compensation under subsections (C)(i)-(ii) and (D) of this section, by resource type; and
 - vi. The total number of kilowatt-hours (kWh) supplied to net metered customer-generators, by resource type.
- F. A customer-generator that is eligible for net metering owns the renewable attributes of the electricity it generates, unless there is a written contract with an express provision that assigns ownership of the renewable attributes. A customer-generator owns the Renewable Energy Credits (RECs) associated with the electricity it generates, unless such RECs were explicitly contracted for through a separate transaction, independent of any net metering or interconnection tariff or contract.
- G. An electric utility shall provide net metering at non-discriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges, to the rates that a customer-generator would be charged if it were not a customer-generator.
- H. An electric utility shall not charge a customer-generator any fee or charge, or require additional equipment, insurance, or any other requirement, unless the fee, charge, or other requirement is specifically authorized under this subchapter, or the fee applies to all other customers in that rate class that are not customer-generators. This prohibition extends to "standby" charges that may be levied on customer-generators. Depending on how they set it up, net metering may require a new AC meter, along with the DC meter. The utility should not have to absorb this cost. The meter should be part of the overall cost of the renewable energy system being installed and paid for by the customer. Any additional charge by an electric utility must be reasonable and appropriate for that class of customer based on the most recent cost of service study, which shall be made available for review by a customer-generator upon request.
- I. If, in any billing period, the billing credit exceeds the charge for electricity usage, the difference shall be carried forward as a credit to the next billing period. All costs and credits shall be shown on the customer-generator's bill for each billing period. In any months in which the customer-generator has been a net consumer of electricity, the customer-generator shall owe to the electric utility the balance of electricity costs and credits during that billing period, if any. In any billing period in which the customer-generator has been a net producer of electricity, the electric utility shall maintain an account of credits for the benefit of the customer-generator in subsequent billing periods. Any net credit to the customer-generator of electricity costs may be carried forward to subsequent billing periods, provided that an electric utility may choose to carry the credit over as a kilowatt hour credit consistent with the provisions of any applicable contract or tariff, including any differences attributable to the time of generation of the electricity.
- J. Nothing in this subchapter shall abrogate any person's obligation to comply with all applicable federal or Tribal laws and codes.

- K. Regarding the processing of net metering requests:
- i. Every electric utility shall ensure that requests for establishment of net energy metering and net surplus electricity compensation are processed in a time period not exceeding that for similarly situated customers requesting new electric service, and not to exceed 90 working days from the date it receives a completed application form for net energy metering service or net surplus electricity compensation, including a signed interconnection agreement from an eligible customer-generator and the electric inspection clearance from the TUC.
 - ii. If an electric utility is unable to process a request within the allowable timeframe described in paragraph (K)(i), it shall notify the eligible customer-generator and the TUC of the reason for its inability to process the request and the expected completion date.
- L. At the end of each 12-month period, where the electricity generated by the customer-generator during the 12-month period exceeds the electricity supplied by the electric utility during that same period, the customer-generator is a net producer, and the electric utility, upon an affirmative election by said net producer, shall either:
- i. provide monetary compensation for any net surplus electricity generated during the prior 12-month period, or
 - ii. allow the net producer to apply the surplus electricity as a credit toward future kilowatt hours supplied by the electric utility.
- M. Every electric utility shall provide notice to customer-generators that they are eligible to receive monetary compensation for net surplus electricity, that they must elect to receive monetary compensation, and that the 12-month period commences when the electric utility receives the eligible customer-generator's election.
- N. For a customer-generator that does not affirmatively elect to receive service, as described in paragraph (L)(ii), the electric utility shall retain any excess kilowatt hours generated during the prior 12-month period and shall credit the customer-generator's account for any excess kilowatt hours as described in paragraph (L)(i). The customer-generator not affirmatively electing to receive service pursuant to net surplus electricity compensation shall not be owed any additional compensation for the net surplus electricity unless the electric utility enters into a purchase agreement with the eligible customer-generator for those excess kilowatt hours.
- O. The electric utility shall provide every customer-generator with an accounting of that customer-generator's net annual and monthly consumption and production with each regular bill. That information shall include the current monetary balance owed the electric utility for net electricity consumed, or the current monetary balance owed the customer for net surplus electricity generated. An electric utility shall permit that customer-generator to pay monthly for net energy consumed.

SECTION 105. Meters and Metering

- A. A customer-generator shall pay the cost of approved metering equipment that measures the flow of electricity in both directions at the same rate, typically through use of a single bi-directional meter.
- B. A customer-generator may choose to use an existing meter if the following criteria are met:
 - i. The meter is capable of measuring the flow of electricity both into and out of the customer-generator's facility at the same rate; and
 - ii. The meter is accurate to within plus or minus 5 percent when measuring electricity flowing from the generating facility to the electric distribution system.
- C. If the customer-generator's existing meter is not capable of measuring the bi-directional flow of electricity within the tolerances specified in subsection (B)(ii), then any subsequent meter change necessitated by the customer-generator, whether because of a decision to stop net metering or for any other reason, shall be paid for by the customer-generator.
- D. The electric utility shall not require more than one meter per customer-generator. Two meters may be used where one meter is not capable of working properly or meeting the requirements in subsection (B) above, and the result of adding a second meter is identical to the result if one bi-directional meter were used. The electric utility shall be responsible for the installation of such a second meter, at the company's expense.
- E. An additional meter may be installed under either of the following circumstances:
 - i. The electric utility may install an additional meter at its own expense if the customer-generator consents; or
 - ii. The customer-generator may request that the electric utility install an additional meter at the customer-generator's expense. The cost for such a meter shall be limited to the actual cost of the meter and its installation.

SECTION 106. General Interconnection Provisions

- A. Each electric utility shall designate an employee or office from which an applicant can obtain basic application forms and information through an informal process. Each electric utility shall publish on its website the application forms and a phone number, electronic mail address, and postal address of the employee or office where customers may send inquiries regarding net metering and interconnection. Upon request, that employee or office shall provide all relevant forms, documents, and technical requirements for submittal of a complete application for interconnection review under this section, as well as specific information necessary to contact the electric utility representatives assigned to review the application. Upon request and if applicable, the electric utility will meet with an applicant prior to submission of an application for expedited interconnection.
- B. An application for interconnection review shall be submitted on a standard form, available from the electric utility and the TUC. The application form will require the following types of information:
 - a. Basic information regarding the applicant and the electricity supplier(s) involved;
 - b. Information regarding the type and specifications of the generating facility;

- c. Information regarding the contractor who will install the generating facility;
 - d. Certifications and agreements regarding utility access to the customer-generator's property, emergency procedures, liability, compliance with electrical codes, proper operation and maintenance, and receipt of basic information; and
 - e. Other similar information that is necessary to determine compliance with these Regulations.
- C. Utilities shall maintain reasonable public policies for interconnection to their facilities. No electric utility shall disapprove an interconnection that meets national standards of safety and reliability. The White Earth Nation, its subsidiaries, and/or its affiliated entities shall have the right to interconnect wholesale or retail facilities to the facilities of any electric utility under the same terms and conditions as those under which the electric utility interconnects to its own facilities.

SECTION 107. Certification of Customer-Generator Facilities

- A. In order to qualify as "certified" for any interconnection procedures, customer-generators shall comply with the following codes and standards as applicable:
 - i. IEEE 1547 Standard for Interconnecting Distributed Resources with Electric Power Systems or IEEE 929 for inverters less than 10kW in size.
 - ii. UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems (January 2001), as amended and supplemented. UL standards can be obtained through the Underwriters Laboratories website at www.ul.com
 - iii. When any listed version of these codes and standards is superseded by a revision approved by the standards-making organization, then the revision will be applied under Section 107(B).
- B. Certification of Equipment Packages: Interconnection equipment shall be considered certified for interconnected operation if it has been tested and listed by a nationally recognized testing and certification laboratory (NRTL) for continuous interactive operation with a utility grid and meets the definition for Certification under FERC Order 2006.
- C. A renewable electrical generation facility used by a customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, including Underwriters Laboratories Incorporated and, where applicable, rules of the commission regarding safety and reliability. A customer-generator whose renewable electrical generation facility meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.
- D. Customer-generators shall not be required to install unreasonable safety equipment consisting of additional external shut-off switches representing a 4th or 5th level of redundancy. For purposes of these Regulations, it is assumed that all inverters that meet Institute of Electrical and Electronics Engineers standards (IEEE 1547) have automatic shut-off capabilities, integrated with the systems which shut down interconnected systems automatically in the event of a grid failure.

SECTION 108. Dispute Resolution

- A. For disputes related to the technical application of these rules, the TUC may from time to time designate a technical master for the resolution of such disputes. If the TUC has so designated, the parties shall use the technical master to resolve disputes related to interconnection, and such resolution shall be binding on the parties. Costs for dispute resolution by the technical master, if any, shall be as directed by the technical master, subject to review by the TUC.
- B. Legal disputes shall be under the jurisdiction of the White Earth Nation Code and the White Earth Tribal Court.
- C. Nothing in these Regulations shall be construed as waiving the sovereign immunity of the White Earth Nation or any of its constituent parts, including the Tribal Utility Commission.

SECTION 109. Civil Penalty

- A. An electric utility which, after written notice by the TUC of a specific violation, violates the same provision of this chapter, the same rule adopted by the TUC, or the same provision of an order lawfully issued by the TUC, is subject to a civil penalty, which may be levied by the TUC, of not less than \$100 (one hundred dollars) nor more than \$2500 (two thousand five hundred dollars) per violation.
- B. An electric utility which willfully, after written notice by the TUC of a specific violation, violates the same provision of this chapter, the same rule adopted by the TUC, or the same provision of an order lawfully issued by the TUC, is subject to a civil penalty, which may be levied by the board, of not less than \$1000 (one thousand dollars) nor more than \$10,000 (ten thousand dollars) per violation. For the purposes of this section, "willful" means knowing and deliberate, with a specific intent to violate.
- C. Each violation is a separate offense. In the case of a continuing violation, each day a violation continues, after the time specified for compliance in the written notice by the TUC, is a separate and distinct offense. Any civil penalty may be compromised by the TUC. In determining the amount of the penalty, or the amount agreed upon in a compromise, the TUC may consider the appropriateness of the penalty in relation to the size of the electric utility, the gravity of the violation, the good faith of the electric utility in attempting to achieve compliance following notification of a violation, and any other relevant factors.
- D. The written notice given by the board to an electric utility under this section shall specify an appropriate time for compliance.
- E. Civil penalties collected pursuant to this section from utilities providing electric service shall be allocated by the TUC for such purposes as the TUC may designate. Penalties paid by an electric utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement and shall not be included either directly or indirectly in the utility's rates or charges to customers.